



CITY OF FRANKLIN

DEPARTMENT OF PLANNING & ENGINEERING

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BZA Staff Report

To: Board of Zoning Appeals Members
From: Alex Getchell, Associate Planner
Date: July 28, 2016
Re: **ZB 2016-10 (V) | Scott Setser | 699 S. Morton Street**

REQUESTS:

Case ZB 2016-10 (V)...699 S. Morton Street. A request for consideration of developmental standards variances from the City of Franklin Zoning Ordinance, Article 5, Chapter 4, to allow outdoor storage & display of merchandise (vehicles), and from Article 7, Chapter 10, to allow merchandise vehicles to be parked without individually painted parking spaces, in the MXC: Mixed-use, Community Center zoning district and GW-OL: Gateway Overlay district. The subject properties are located at 699 S. Morton Street and the property immediately south of it, which are the former tree nursery and the current Milbourn Auto sales properties, at the intersection of Nineveh St. and S. Morton St. (US Hwy 31).

PURPOSE OF STANDARD:

The “MXC”, Mixed Use: Community Center zoning district is intended to provide locations for a variety of small-to-mid-sized businesses and institutional facilities that serve the entire Franklin-area community. This district should be used alone and in combination with other zoning districts to create areas for community shopping, entertainment, services, and public gatherings.

The intent of the Gateway Overlay (GW-OL) district is to require development at the City’s entrances that is aesthetically consistent, responsive to development pressures, and proportional to the area’s traffic management issues.

CONSIDERATIONS:

Proposed Use – Variance Requests

1. Scott Setser, Petitioner, is requesting approval for outdoor storage of merchandise (vehicles) to not be immediately adjacent to the building in the Gateway Overlay District (GW-OL), and to be allowed to park the merchandise vehicles in designated merchandise storage areas, instead of individually delineated parking spaces for each vehicle. [[Exhibit A: Petitioner’s Site Plan](#)] [[Exhibit B: DPE Site Plan](#)]
2. According to the petitioner, he has a purchase agreement with the owners of two properties, which were both previously utilized as a plant nursery, at 699 S. Morton Street, at the intersection of Nineveh Street and S. Morton St. Mr. Thomas Helton owns the southern-most vacant parcel on the north side of the intersection, and Everett Milbourn owns the next parcel north of the intersection, where Milbourn Autos currently operates. The Helton property does not appear to have any direct vehicular access onto either road; the only access is through the Milbourn property. A land survey has not yet been completed, to determine boundaries, easements, or location of existing improvements on the property.
3. Petitioner is proposing to utilize both properties, as the improvements currently exist, for the operation of a used car dealership. Petitioner also has long term plans to expand the business farther onto the south (Helton) property in the future.

4. According to the City of Franklin Zoning Ordinance, automobile/motorcycle sales and service is listed as an auto-oriented use (large scale), and is defined as: Uses such as sales and service of automobiles, motorcycles and/or recreational vehicles, and others listed under the heading of Auto-Oriented Uses, Large Scale by the Land Use Matrix included in this Ordinance. This does not include any uses, such as auto repair shops or gas stations, listed under the headings of auto-oriented uses medium or small scale.
5. Auto-oriented uses (large scale) are permitted in the MXC: Mixed-use, Community Center and the MXR: Mixed-use, Regional Center zoning districts.

Gateway Overlay District – Outdoor Merchandise Storage Areas (Vehicles For Sale)

6. According to Article 5, Chapter 4, merchandise may be stored or displayed for sale to customers only in areas immediately adjacent to the primary structure on each property. The storage of outdoor merchandise for sale elsewhere on the property shall be prohibited.
7. Outdoor Storage is defined as: The keeping of items for sale, the products of manufacturing, materials used in production, **vehicles**, and other similar materials and/or equipment in an area outside of any building.
8. *The petitioner is requesting relief from this standard, to be allowed to display vehicles for sale in specifically marked storage areas, which would not limit them to vehicles immediately adjacent to the building.*

Non-Delineated Merchandise Parking

9. According to Article 7, Chapter 10, all parking areas, including parking spaces, interior drives, and ingress/egress into parking areas must be paved with asphalt or concrete to the nearest paved street. All parking areas shall be clearly painted to show each parking space.
10. Article 7, Chapter 10 requires one (1) parking space be provided for each vehicle on display at an auto dealership (of an appropriate size, and to be used for the storage of each vehicle).
11. *The petitioner is requesting relief from this standard, to not individually paint the merchandise vehicle parking spaces. Instead, petitioner wishes to display merchandise vehicles in designated storage areas, at different angles, and wants to be able to freely change the orientation of vehicles to attract customers.*

Parking Requirements

12. According to Article 7.10:
 1. A minimum of 1 off-street parking space is required for (rounded to the nearest complete space):
 - a. Every 500 sq.ft. of Auto Sales Show Room space;
 - b. Each employee working on the largest shift
 - c. Each merchandise vehicle; and
 - d. Each business vehicle.
 - e. At least one (1) space must be reserved for disabled persons.
 2. Minimum parking stall size is 9' x 18' and must be striped.
 3. Each parking space must be paved with asphalt or concrete.
13. Therefore, according to Article 7.10, the following number of off-street parking spaces required for the proposed use are:
 - a. Auto sales show room (525 sq. ft.): 1 space
 - b. Employees on largest shift (currently 2): 2 spaces
 - c. Merchandise vehicles: *requesting designated storage areas*
 - d. Business vehicles (0): 0 spaces
 - e. Disabled Persons spaces required: 1 space
 - f. TOTAL SPACES REQUIRED: 4 spaces
14. At least one (1) space provided must be reserved for disabled persons, consistent with the requirements of the Americans with Disabilities Act Accessibility Guidelines for Buildings and Facilities, Chapter 4.1.2 (5)(a) and all applicable revisions.

Comprehensive Plan & Zoning Ordinance

15. The 2013 Franklin Comprehensive Plan, Land Use Plan, identifies this area as Community Activity Center. "Community activity centers area intended as areas of mixed land uses that provide gathering places and goods and services for the entire community. Community activity centers may include churches, schools, community parks, grocery stores, gas stations, shopping centers, offices, banks and restaurants. Community activity centers may also include residences located on the upper floors of otherwise commercial buildings. Community activity centers are generally located along major streets and at prominent intersections where they are readily accessible by people from throughout the community."
16. The 2013 Franklin Comprehensive Plan, Land Use Plan, also addresses the Design Features for Community Activity Center areas: "Community activity centers should be designed as centers, rather than strips, of activity. Curb cuts onto major roads should be limited and internal drives should connect all individual businesses with each other. Pedestrian routes should provide safe, convenient, and pleasant access between street sidewalks and internal walks. Ample outdoor furniture, window displays, and public art are encouraged in these areas. Parking areas, mechanical areas, and trash areas should be carefully designed to be screened from the view of residential areas. Parking lots should include ample landscaping both at the perimeter and within each lot. Adjacent residential areas should be provided with vehicle and pedestrian access to community activity centers, but should be buffered from view with landscaping and other site features."
17. The definition of a practical difficulty, according to the 2004 City of Franklin Zoning Ordinance is: A difficulty with regard to one's ability to improve land stemming from regulations of this Ordinance. A practical difficulty is not a "hardship," rather it is a situation where the owner could comply with the regulations within the Zoning Ordinance, but would like a variance from the Developmental Standards to improve his/her site in practical manner. For instance, a person may request a variance from a side yard setback due to a large tree that is blocking the only location that would meet the Development Standards for a new garage location.
18. According to Article 2.5: A special exception or variance ceases to be authorized and is expired if the obtaining of an Improvement Location Permit, or the execution of the approval has not been completed within 1 year of the date the variance or special exception is granted. The variance or special exception shall also expire if the approved construction has not been completed and approved by the Planning Director as being consistent with all written commitments or conditions, the requirements of this Ordinance, and all applicable permits within 2 years of the date the approval is granted.
19. The surrounding zoning and land uses are as follows:
All adjacent properties fronting onto US Hwy 31 are located within GW-OL: Gateway Overlay District

Surrounding Zoning: North: MXC: Mixed-use, Community Center South: IN: Institutional RS-1: Residential, Suburban One East: IN: Institutional RTN: Residential, Traditional Neighborhood West: RS-1: Residential, Suburban One	Surrounding Land Use: North: Automobile Sales South: New Life Baptist Church Single-family Residential East: New Life Baptist Church Vacant lot West: Single-family Residential
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CRITERIA FOR DECISIONS – DEVELOPMENT STANDARDS VARIANCE:

(The petitioner will need to address the Criteria for Decisions in their presentation**)**

In taking action on all special exception and variance requests, the Board of Zoning Appeals shall use the following decision criteria, consistent with the requirements of the Indiana Code. The Board may grant a special exception and a variance from development standards and limitations of this Ordinance if, after a public hearing, it makes findings of facts in writing (consistent with IC 36-7-4-918.5) that:

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DECISION CRITERIA – DEVELOPMENT STANDARDS VARIANCES

1. ***General Welfare: The approval (will or will not) be injurious to the public health, safety, morals, and general welfare of the community.***

Staff Finding:

Staff finds the approval of the variances, with staff recommended conditions, to allow merchandise vehicles to be displayed for sale within specifically designated storage areas not immediately adjacent to the building, will not be injurious to the public health, safety or general welfare of the community. Staff finds the request for merchandise vehicle storage areas will not be injurious to the public health and safety, as long as, the merchandise storage areas are marked with appropriate pavement markings, for the entire boundary of the storage area, and the merchandise vehicles are stored completely within the painted boundaries.

2. ***Adjacent Property: The use and value of the area adjacent to the property included in the variance (will or will not) be affected in a substantially adverse manner.***

Staff Finding:

Staff finds approval of the variance requests for outdoor merchandise (vehicle) storage areas, and to not provide individually striped parking spaces for merchandise vehicles, will not affect the use and value of adjacent properties in any way. Auto sales facilities are common along the N. & S. Morton St. / US Hwy 31 corridor; several of those facilities also utilize non-delineated parking areas for merchandise vehicles. Approval of this request will not substantially alter the character of the immediate vicinity.

3. ***Practical Difficulty: The strict application of the terms of the ordinance (will or will not) result in a practical difficulty in the use of the property. This situation shall not be self-imposed, nor be based on a perceived reduction of, or restriction on, economic gain.***

Staff Finding:

The strict application of the ordinance will result in practical difficulties for the requested variances. Staff finds no practical reason to prohibit outdoor storage of merchandise vehicles at this location, with the proposed site layout shown in Exhibit B, or with a possible expansion in the future, as long as the recommended conditions of approval are met. Moreover, it is not practical to strictly require the merchandise vehicles be parked within individually delineated parking spaces, when the merchandise vehicle storage areas can be bounded and painted to allow the petitioner to change the orientation of display vehicles, without affecting the overall safety or welfare of the public.

STAFF RECOMMENDATION – DEVELOPMENT STANDARDS VARIANCES

Based on the written findings above, staff recommends **approval** of the petition with the following conditions:

- A. A site plan (to scale) delineating the individual parking stalls and the merchandise display areas shall be provided to Planning Staff for review and approval prior to pavement markings being placed and the commencement of the automobile sales business. An ALTA/ACSM Land Title Survey shall be included in the site plan submittal in order to establish the exact limits of the properties to ensure that all improvements are provided on site and meet minimum requirements of the Zoning Ordinance.
- B. The merchandise vehicle storage areas, without individually painted parking spaces, shall have a solid white line, marked with appropriate pavement markings, for the entire boundary of the storage areas, as approved by Planning Staff per Item A above.
- C. All merchandise vehicles shall be stored completely within the marked boundaries of the merchandise vehicle storage areas. Merchandise vehicles parked over the boundary line or within any of the required employee or customer parking spaces or interior drives shall be strictly prohibited.
- D. Merchandise vehicle parking within the public right-of-way shall be strictly prohibited.
- E. Vehicle parking, of any kind, in the grass or on an unpaved surface shall be strictly prohibited.

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- F. Required parking spaces for employees and customers shall be provided as individually delineated parking spaces and shall be marked with appropriate pavement markings, as indicated on the attached site plan, and in accordance with the zoning ordinance standards.
- G. Storage of car carrier trucks and/or trailers, including loading/unloading, in excess of two (2) hours shall be prohibited.
- H. The south entrance from Nineveh Street shall be completely blocked off (onsite) to prevent vehicular traffic, with appropriate barriers, not merchandise vehicles, until such time as the business expands to the south and/or a new merchandise vehicle storage plan is designed and approved.
- I. Redesign of the parking lot and traffic flow upon the existing improvements, as approved by Planning Staff per Item A above, or the expansion of the automobile sales operation, including merchandise display areas, shall require Board of Zoning Appeals review and approval.
- J. All applicable permits/approvals shall be obtained, including but not limited to: site development plan approval, building permits, sign permits, etc.